

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

FILED

09/16/2026

Clerk of the
Appellate Courts

BRANDON JOHNSON v. STATE OF TENNESSEE

**Criminal Court for Shelby County
No. 16-02052**

No. W2026-01359-CCA-T10B-CO

ORDER

The Petitioner, Brandon Johnson, has filed a petition for an accelerated interlocutory appeal pursuant to Supreme Court Rule 10B, Section 2, seeking review of the trial court's August 26, 2026 order denying the Petitioner's motion for recusal of the trial court in his pending coram nobis proceedings. Following our de novo review, we affirm the trial court's order denying the Petitioner's motion for recusal.

SUPREME COURT RULE 10B

Any party seeking disqualification, recusal, or a determination of constitutional or statutory incompetence of a judge of a court of record, or a judge acting as a court of record, shall do so by a written motion filed promptly after a party learns or reasonably should have learned of the facts establishing the basis for recusal. The motion shall be filed no later than ten days before trial, absent a showing of good cause which must be supported by an affidavit. The motion shall be supported by an affidavit under oath or a declaration under penalty of perjury on personal knowledge and by other appropriate materials. The motion shall state, with specificity, all factual and legal grounds supporting disqualification of the judge and shall affirmatively state that it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. A party who is represented by counsel is not permitted to file a pro se motion under this rule.

Tenn. Sup. Ct. R. 10B, § 1.01. If the trial judge denies the motion, the party may then file a petition for appellate review. *Id.*, § 2.01. The petition must be filed within twenty-one days of the trial court's order, and the appealing party is required to promptly file a copy of

the petition with the trial court clerk and serve all other parties. *Id.*, § 2.02. Section 2.03 further requires the petition to include a statement of the issues presented for review, a statement of the relevant facts, and supporting argument requesting specific relief, as well as copies of any order or opinion and any other parts of the record necessary for determination of the appeal. The court may summarily act on the appeal if it determines, based on the petition and supporting documents, that an answer from the State party is unnecessary. *Id.*, § 2.05.

Having reviewed the timely-filed petition and supporting documents, the court has determined that an answer from the State, additional briefing, and oral argument are not necessary for a determination of the appeal. Therefore, the court has elected to act summarily.

BACKGROUND

In February 2018, the Petitioner was convicted of first degree murder and unlawful possession of a firearm by a convicted felon and sentenced to an effective sentence of life plus ten years. *State v. Johnson*, W2018-01222-CCA-R3-CD, 2019 WL 6045569 (Tenn. Crim. App. Nov. 14, 2019), *perm. app. denied* (Tenn. Apr. 1, 2020). According to the petition, a petition for post-conviction relief and a petition for writ of error coram nobis are currently pending in the trial court. As relevant to the coram nobis petition, the Petitioner filed a motion seeking the medical and pharmacy records of a State's witness in support of his challenge to the credibility of the witness's trial testimony. On June 5, 2026, the trial court denied the Petitioner's motion. In so doing, the trial court found that the witness's "affidavit was not an unequivocal recantation, found the witness credible, and concluded that additional records would not affect the outcome."

The Petitioner claims that he mailed a motion to recuse to the trial court clerk on August 10, 2026. On August 12, 2026, the Petitioner filed a "Legal Notice and Demand" in the trial court regarding the motion to recuse. On August 26, 2026, the trial court treated the Legal Notice and Demand as a motion to recuse. The trial court denied relief on both procedural and substantive grounds concluding that (1) the pleading was procedurally insufficient because it did not "affirmatively state that it [wa]s not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation," *see* Tenn. Sup. Ct. R. 10B. § 1.01, and (2) the court's recusal was not required based upon the Petitioner's allegations of adverse rulings alone.

In the petition before this court, the Petitioner argues that the trial court failed to rule upon the motion for recusal because the trial court clerk never docketed the motion; that the motion for recusal was supported by affidavit as is required by Rule 10B, section 1.01; and

that the trial court's denial of his motion for medical and pharmacy records would cause a reasonable person to question the trial court's impartiality. The Petitioner has attached to his petition a copy of the motion to recuse, affidavit, and memorandum of law in support of recusal—purportedly mailed on August 10, 2026, the Legal Notice and Demand, the trial court's August 26, 2026 order denying recusal, and documents in support of the Petitioner's claim that a motion to recuse was mailed from the correctional institution on August 10, 2026.

STANDARD OF REVIEW

Tennessee Supreme Court Rule 10, Code of Judicial Conduct Rule 2.11 provides, "A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned." Even if a judge subjectively believes he can be fair and impartial, recusal is required whenever "the judge's impartiality might be reasonably questioned because the appearance of bias is as injurious to the integrity of the judicial system as actual bias." *Smith v. State*, 357 S.W.3d 322, 341 (Tenn. 2011) (internal quotation omitted). This court reviews the trial court's ruling on a motion for recusal under a de novo standard of review. Tenn. Sup. Ct. R. 10B, § 2.01.

"The words 'bias' and 'prejudice' are central to the determination of whether a recusal should be granted." *State v. Rimmer*, 250 S.W.3d 12, 38 (Tenn. 2008). "Generally, the terms refer to a state of mind or attitude that works to predispose a judge for or against a party." *Alley v. State*, 882 S.W.2d 810, 821 (Tenn. Crim. App. 1994). However, "[n]ot every bias, partiality, or prejudice merits recusal." *Id.* To warrant disqualification, "prejudice must be of a personal character, directed at the litigant, must stem from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learned from ... participation in the case." *Id.* (internal quotation omitted). "A trial judge's adverse rulings are not usually sufficient to establish bias." *State v. Cannon*, 254 S.W.3d 287, 308 (Tenn. 2008); *Alley*, 882 S.W.2d at 821.

A judge's duty to recuse springs from a constitutional source: Article VI, section 11 of the Tennessee Constitution provides that "[n]o Judge of the Supreme or Inferior Courts shall preside on the trial of any cause in the event of which he [or she] may be interested" Our Supreme Court has explained "[t]he purpose of Article 6, § 11 of our Constitution is to insure every litigant the cold neutrality of an impartial court." *Leighton v. Henderson*, 414 S.W.2d 419, 421 (Tenn. 1967). Similarly, the Code of Judicial Conduct requires a judge to perform the duties of his or her office without bias or prejudice. Tenn. Sup. Ct. R. 10, R 2.3(A). Accordingly, the Code demands that "[a] judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned." *Id.*, § 2.11(A). Our supreme court has reiterated that "the analysis for impartiality . . . in fact is whether 'a person of ordinary prudence in the

judge's position, knowing all of the facts known to the judge, would find a reasonable basis for questioning the judge's impartiality.'" *State v. Griffin*, 610 S.W.3d 752, 762 (Tenn. 2020) (quoting *Cannon*, 254 S.W.3d at 307 (Tenn. 2008) and *Liberty Mut. Ins. Co.*, 38 S.W.3d at 564)).

ANALYSIS

At the outset, the court observes that the Petitioner did not properly serve the State with a copy of the petition for recusal appeal. Tenn. Sup. Ct. R. 10B, § 2.02. While the Petitioner served a copy of the petition on the Shelby County District Attorney General's Office, the Office of the Attorney General and Reporter in Nashville has the exclusive authority to attend to the business of the State in matters before this court. Tenn. Code Ann. § 8-6-109(b)(2). Moreover, regardless of whether the trial court did not review the August 10, 2026 motion for recusal due to some mailing issue or clerical error that prevented its filing, we conclude that the Petitioner has failed to establish grounds for recusal in this matter. Simply stated, the trial court's adverse ruling would not cause a reasonable person to question the trial court's impartiality. *Alley*, 882 S.W.2d at 821. Accordingly, we conclude that the trial court properly denied recusal in this matter.

CONCLUSION

After a de novo review of the petition and attachments thereto, this court concludes that the trial court properly denied the Petitioner's motion to recuse. Knowing all the facts known to trial court, a person of ordinary prudence would not find a reasonable basis for questioning his impartiality in this case. The trial court's order denying the Petitioner's motion for recusal is AFFIRMED.

The Petitioner failed to provide proof of indigency with the filing of the petition for recusal appeal. *See* Tenn. R. App. P. 6(a). Therefore, the costs associated with this action are taxed to the Petitioner, Brandon Johnson, for which let execution issue, if necessary. The appellate court clerk shall promptly forward a copy of this order to all parties, to the trial court, and to the trial court clerk.

JUDGE CAMILLE R. McMULLEN
JUDGE J. ROSS DYER
JUDGE MATTHEW J. WILSON